

BYRAM TOWNSHIP PLANNING BOARD AGENDA
For Thursday, April 18 2024, at 7:30 P.M.
Meeting Held at: 10 Mansfield Drive, Byram Township NJ

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **OPENING STATEMENT:** Adequate notice of this meeting has been published specifying the time and place in compliance with the provisions of the Open Public Meetings Act.
4. **FLAG SALUTE**
5. **MEETING MINUTES-** April 4, 2024
6. **RESOLUTIONS**
 - SP8-2023 Byram Car Wash, 56 Route 206, Block 365 Lot 1.01, VC Zone
Application for replacement of vacuums and monument sign
7. **SUBCOMMITTEE**
 - SP2-2024 Raimo of Stanhope, 43 Route 206, Block 35 Lot 36, VB Zone
Application for amendment to accessory structure and principle building
8. **OLD BUSINESS**
 - Z02-2024 Catherine Trader, 55 North Shore Road, Block 157 Lot 272, R-5 Zone
Approval for concrete pad and propane tanks in the side setback
9. **NEW BUSINESS**
 - Z27-2023 Nicco Brancaccio, 22 Adair Street, Block 17 Lot 19, R-5 Zone
Application for shed in the front yard

 - Z07-2024 Dana Taylor, 16 Weaver House Cove Road, Block 109 Lot 2, R-5
Application for a deck in the side yard

 - Z08-2024 Diane and William Carkhuff, 82 South Shore Road, Block 189 Lot 1, R-5 Zone
Application for construction of a new single-family dwelling
10. **DISCUSSION ITEM:** Architectural Review Committee
11. **BILLS:** Harold Pellow (6): \$1,808 / Maraziti and Falcon (11): \$4,742.50
12. **REPORTS FROM COMMITTEES**
 - Architectural Review Committee
 - Environmental Commission
 - Open Space
 - Township Council
 - Zoning Report
13. **OPEN TO THE PUBLIC**
14. **ADJOURNMENT**

The Board Engineer and Planner are sworn in at the beginning of each year and are deemed to be under oath on a continuing basis.

Resolutions Approved at Previous Meeting

In the matter of Christine Turcios
Case No. Z04-2024
MF#5000.098

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: Side Yard Setback

WHEREAS, Christine Turcios has applied to the Planning Board of the Township of Byram seeking approval to construct an addition to the premises located at 497 Stanhope Road, and known as Block 342.02, Lot 23 on the Tax Map of the Township of Byram which premises are in a “R-5” Residential Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

1. The Applicant is the owner and occupant of the subject property. The Applicant is proposing to construct an addition of a shed, with a roof and three walls, on the side of the existing home, requiring the following relief from the Township’s Zoning Ordinance:

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- a. Section 240-54C(3) – Minimum Side Yard Setback: 15 feet is required and 2 feet was proposed.
2. The Applicant submitted the following documents along with the Application for a Variance:
 - a. Survey prepared by John J. Vogel, II, Land Surveyor, dated January 5, 2024.
 - b. Notice of Violation issued by Nick Cutrone, Zoning and Code Enforcement Officer, dated January 8, 2024.
 - c. Pictures of the proposed addition, under construction, five (5) total.
3. The Board received a memorandum from
 - a. Cory L. Stoner, P.E., P.P., the Planning Board Engineer, dated January 17, 2024.
 - b. Environmental Commission, no date
4. A duly noticed public hearing was conducted on March 7, 2024, at which time Christine Turcios, presented sworn testimony in support of the application.
5. Applicant came to the Board due to the issuance of a Notice of Violation
6. The Applicant Christine Turcios testified in support of the Application.
7. Ms. Turcios testified that they started to build the shed without permits because they were unaware of the requirement to obtain variance or other approvals prior to construction. The proposed structure is intended for solely storage, it will not be heated or cooled and there will be no access to the house from the shed. The rear yard can be accessed by going on the other side of their home.

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8. The plans submitted with the Application that indicated the structure would be two (2) feet from the property line at the closest point was measured from the 4” by 4” posts and did not take into account the thickness of the siding or roof overhang. The fence along the shed is on the subject property and was there when the Applicants bought the house.
9. The Applicant testified that there are four children in the family and that the basement storage area is now a play area for their children and the storage that had been in the basement moved to the garage. The shed is for storage of what had been in the garage, equipment used in her husband’s electrical contracting business.
10. The Members of the Board expressed concern about how close the wall was to the property line.
11. In response to questions from the Board, the Applicant testified that the roof leaders will not divert water to the neighbor’s yard and will run toward the sewer grate on the street.
12. The Applicant amended the Application to move the wall of the shed three (3) feet further away from the property line so that the finished wall will be no less than five (5) feet from the property line; and the roof will be no closer than 4’6” from the property line, there being a four (4) inch wide gutter and two (2) inch overhand from the finished wall, with the plans to be changed to the satisfaction of the Board Engineer.
13. The Applicant amended the request for a side yard variance for the structure to be five (5) feet from the side yard property line measured from the finished

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wall and 4'6" measured from the roof, whereas a minimum of 15 feet is required.

14. The Applicant consented to the condition that the water from the roof of the shed will be diverted and discharged to the street and away from the neighbor's property, to be confirmed by the Board Engineer.

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Byram for the following reasons:

1. The Board found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70c from the following Section of the municipal zoning ordinance.
 - a. Section 240-54C(3) – Minimum Side Yard Setback: 15 feet is required and 5 feet (from the finished wall) and 4 feet 6 inches (from the roof) was approved.
2. N.J.S.A. 40:55D-70c(1) indicates that a variance may be granted under its "hardship" provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. Under the c(2) subsection, variance relief may be granted where it is determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in N.J.S.A. 40:55D-2) and where it is

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further determined that the benefits of granting the variance outweigh any detriments which might result from it.

3. The existing dwelling has limited room for storage. The lot is uniquely situated, limiting the possible locations of the shed. The structure is proposed to serve the needs of the homeowner and will infringe upon the side yard setback in order to accommodate the property's physical limitations and provide sufficient room for storage on the property.
4. The Board determined that relief could be granted without impairing the zoning ordinance or Master Plan, as the subject property was uniquely situated. The Applicant agreed to reduce the size of the proposed shed to reduce the extent of the variance. The benefits of this project outweigh the detriments that may result from the improvements. Based on the unique configuration of the lot, existing fence and vegetation; the shed will have little visual impacts to the area.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 4th day of April 2024 that the approval of the within application, as amended, be granted subject, however, to the following conditions:

1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances. The Applicant shall be subject to all other applicable rules, regulations, ordinances and statutes of the Township of Byram, County of Sussex, State of New Jersey, or any other jurisdiction.
2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant, and its professionals, at the public hearing. The

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representations are incorporated herein and were relied upon by this Board in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval

3. The Applicant shall comply with the reports submitted by the Board's Professionals and Commissions.
4. Plans shall be amended to provide the wall of the shed shall be no closer than 5 feet from the side yard property line and the roof no closer than 4 feet 6 inches from the side yard property line.
5. Applicant to provide that drainage from the shed to be diverted and discharged to the street and away from the neighboring property with such plans subject to the review and approval by the Board Engineer.
6. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
7. Applicant shall submit a Certificate that taxes are paid to date of approval to the Board Secretary.
8. An inspection of all improvements shall be subject to the review of the Board Engineer prior to the issuance of a Certificate of Occupancy and/or the closure of zoning or construction permits.
9. Prior to occupancy, the owner/tenant shall first obtain a Certificate of Occupancy from the Township of Byram Construction Department.
10. Applicant shall submit the Zoning and Construction Permits within 30 days of the adoption of the Resolution, and complete construction of the addition

within 90 days of the adoption of the Resolution, or the Township shall issue a
Summons for the construction of the addition.



George Shivas

On motion of: Mr. Morytko

Seconded by: Mr. McElroy

The vote on the Resolution was as follows:

AYES: Four (4): Mr. McElroy, Mr. Morytko, Mr. Smith, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Two (2): Mayor Rubenstein, Mr. Proctor

ABSENT: Three (3): Ms. Raffay, Mr. Serrilli, Mr. Walsh

I certify that the above Resolution is a
true copy of a Resolution adopted by
the Planning Board on April 4th, 2024.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 04/05/2024

Prepared by: Alyse Landano Hubbard, Esq.
and Andrew Brewer, Esq.

{372092.DOC.1}7

In the matter of Dennis Fornarucci
Case No. Z05-2024
MF#5000.099

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

RELIEF GRANTED: **Front Yard Setback**
 Side Yard Setback
 Distance between Principal Structure and
 an Accessory Structure

WHEREAS, Dennis Fornarucci has applied to the Planning Board of the Township of Byram seeking approval to construct an addition and a deck on the existing dwelling for premises located at 3 Opa Pass, and known as Block 142, Lot 102 on the Tax Map of the Township of Byram which premises are in a “R-5” Residential Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

1. The Applicant is the owner and occupant of the subject property. The Applicant is proposing to construct an addition and a deck on the existing

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dwelling requiring the following relief from the Township's Zoning Ordinance:

- a. Section 240-14 – Minimum Front Yard Setback: 45 feet is required, 37.5 feet is existing, 33 feet is proposed to the addition, 24 feet proposed to the deck.
 - b. Section 240-16B(1) – Minimum Distance between a principal building and an accessory structure: 10 feet is required, 17 feet is existing, 7.5 feet is proposed.
 - c. Section 240-55C(3) Minimum Side Yard Setback: 15 feet is required, 13.6 feet to the existing dwelling and 13.6 feet is proposed to the deck.
2. The Applicant submitted the following documents, along with the Application for a Variance:
- a. Map of the Property, prepared by Stewart Engineering and Surveying, LLC, date July 23, 2021, improvements indicated by Applicant.
 - b. Architectural Sketches, prepared by Dennis Fornarucci, dated February 3, 2024, consisting of 4 sheets.
 - c. Architectural Sketches, with additional dimensions, undated, preparer unknown, consisting of 4 sheets.
 - d. System Review of Individual Subsurface Sewage Disposal, submitted with the Sussex County Department of Health and Human Services, approved on February 5, 2024, along with Septic System Design, prepared by Lyon Engineering, dated June 6, 2021, Survey and Architectural Plans noted above.

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3. The Board received a memorandum from
 - a. Cory L. Stoner, P.E., P.P., the Planning Board Engineer, dated March 1, 2024.
 - b. Environmental Commission, undated.
 - c. Pictures of the property from varying view, 36 pictures total.
4. A duly noticed public hearing was conducted on March 7, 2024, at which time Dennis Fornarucci presented sworn testimony in support of the application.
5. Mr. Fornarucci testified that he planned to construct a 9' by 27' addition with a deck onto his existing home. The Applicant further testified about the three variances and that the shed will be 7.5 feet from the garage, creating the need for the third variance.
6. Mr. Fornarucci consented to the condition that the water that drains from the additions and the garage will be directed to a seepage pit, that will be approved as to size and design by the Board Engineer.
7. Applicant consented to the condition that he will complete the existing swale as per the plans previously approved by the Board, subject to the review and approval by the Board Engineer.
8. The Applicant further testified that the reason for the variances is due to the topography and location of the existing improvements, such that the proposed locations for the construction of the addition and deck are limited.
9. The property is located within the Highlands Preservation Area, per the New Jersey Highlands Water Protection and Planning Act, which excludes the

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regulation of construction of improvements to single-family dwelling, including an addition and a deck.

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Byram for the following reasons:

1. The Board found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70c from the following Sections of the municipal zoning ordinance:
 - a. Section 240-14 – Minimum Front Yard Setback: 45 feet is required, 37.5 feet is existing, 33 feet is proposed to the addition, 24 feet proposed to the deck are approved.
 - b. Section 240-16B(1) – Minimum Distance between a principal building and an accessory structure: 10 feet is required, 17 feet is existing, 7.5 feet is approved.
 - c. Section 240-55C(3) - Minimum Side Yard Setback: 15 feet is required, 13.6 feet to the existing dwelling and 13.6 feet is approved to the proposed deck.
2. N.J.S.A. 40:55D-70c(1) provides that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. Under the c(2) subsection, variance relief may be granted where it is

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determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in N.J.S.A. 40:55D-2) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.

3. The location of the existing home and garage near the front and side yard property lines and the existing topography of the subject property significantly limit where any additions can be constructed to the existing home. The structures are proposed to serve the needs of the homeowner and will infringe on the front and side yard setbacks as well as the minimum distance between a principal building and accessory structure in order to accommodate the location and existing structures and provide sufficient room to utilize the home.
4. The Board determined that relief could be granted without impairing the zoning ordinance or Master Plan, as the subject property was unique due to the location of the existing home and natural topography. The benefits of this project outweigh the detriments that may result from the improvements. Based on the unique configuration and location of the lot, the improvements will have little visual impacts to the area.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 4th day of April 2024 that the approval of the within application be granted subject, however, to the following conditions:

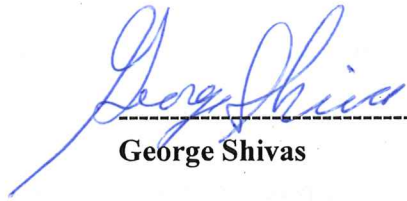
1. The Applicant shall comply with all the conditions and standards set forth in Section 240 of the Township's Ordinances. The Applicant shall be subject to {372096.DOC.1}5

all other applicable rules, regulations, ordinances and statutes of the Township of Byram, County of Sussex, State of New Jersey, or any other jurisdiction.

2. The Applicant shall be bound to comply with the representations made before this Board by the Applicant, and its professionals, at the public hearing. The representations are incorporated herein and were relied upon by this Board in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval
3. The Applicant shall comply with the reports submitted by the Board's Professionals and Commissions.
4. Applicant shall submit a plan by which water that drains from the additions and the garage will be directed to a seepage pit, with such plans to be approved as to size and design by the Board Engineer prior to the issuance of building permits.
5. The Applicant will complete the existing swale as per the plans previously approved by the Board, subject to the review and approval by the Board Engineer prior to issuance of a Certificate of Occupancy.
6. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
7. Applicant shall submit a Certificate that taxes are paid to date of approval to the Board Secretary.
8. An inspection of all improvements shall be subject to the review of the Board Engineer prior to the issuance of a Certificate of Occupancy and/or the closure of zoning or construction permits.

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9. Prior to occupancy, the owner/tenant shall first obtain a Certificate of Occupancy from the Township of Byram Construction Department.



George Shivas

On motion of: Mr. McElroy

Seconded by: Mr. Morytko

The vote on the Resolution was as follows:

AYES: Five (5): Mayor Rubenstein, Mr. McElroy, Mr. Morytko, Mr. Smith, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: One (1): Mr. Proctor

ABSENT: Three (3): Ms. Raffay, Mr. Serrilli, Mr. Walsh

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on April 4th, 2024.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 04/05/2024

Prepared by: Alyse Landano Hubbard, Esq.
and Andrew Brewer, Esq.

{372096.DOC.1}7

In the matter of Kevin and Kate Grey (Extension)
Case No. Z19-2022
MF 5000-053

BYRAM TOWNSHIP

PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

AMENDED

RELIEF GRANTED: Extension of Variance Relief

WHEREAS, Kevin and Kate Grey applied to the Planning Board of the Township of Byram for permission to construct a single-family home requiring bulk variance relief for the premises located at 25 Carpenter Road and known as Block 238, Lot 503 on the Tax Map of the Township of Byram which premises are in a “R-3” Residential Zone;

WHEREAS, by ordinance adopted by the Township Council of the Township of Byram under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one Board which Board possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55B-1, et seq., said single Board being known as the Planning Board of the Township of Byram; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing the subject application was approved; and

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WHEREAS, based on the foregoing, the Board was requested to revisit the subject approval:

1. The Applicants are the owners of the subject property, and received Planning Board Approval to construct a single-family home, requiring variance relief from the following Sections of the Township's Zoning Ordinance:
 - a. Section 240-53.C(2) – Minimum Front Yard Setback: 75 feet is required, 38 feet was approved.
 - b. Section 240-53.C(7) – Maximum 2½ Stories of Building Height permitted, 3 stories was approved.
 - c. Section 240-98.C – Disturbance of Critical Slopes Greater than 25% is prohibited, 19.8% of Critical Slopes disturbance was approved.
2. The approval was granted on January 19, 2023, memorialized in a Resolution dated February 2, 2023, and published in the New Jersey Herald on February 8, 2023.
3. The Applicant submitted a request via email on January 22, 2024, seeking an extension of variance approvals, which explained that the Applicants encountered an unexpected life event that required their focus and was their priority financially.
4. Section 45-23 of the Township's Ordinances provides that any variance granted that permits the creation or alteration of a structure shall expire unless construction has commenced within one year from the date of publication of the resolution.
5. The Applicant has requested a one-year extension of said approval.

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WHEREAS, the Board determined that, based on the information provided, the Variance Approval shall expire on February 8, 2025 and the Applicant is entitled to a one-year extension of the subject variance approvals to commence construction.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Byram on the 1st day of February 2024 that the variance approvals, as stated herein, shall be extended for a period of one year from the date of the publication of the Resolution, to February 8, 2025.



George Shivas

On motion of: Mr. Morytko

Seconded by: Mr. McElroy

The vote on the Resolution was as follows:

AYES: Four (4): Mr. McElroy, Mr. Morytko, Mr. Smith, Chairman Shivas

NAYS: Zero (0)

ABSTAINING: Two (2): Mayor Rubenstein, Mr. Proctor

ABSENT: Three (3): Ms. Raffay, Mr. Serrilli, Mr. Walsh

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on April 4, 2024 and is in effect for one year.

Caitlin Phillips

**Caitlin Phillips, Planning Board
Secretary**

Dated: 04/05/2024

Prepared by: Alyse Landano Hubbard, Esq.

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